

## **MINUTES**

Niles City Council held its regular meeting Wednesday, June 7, 2006 at 6:00 p.m. in Council Chambers, Safety-Service Complex, Niles, Ohio. The meeting was called to order by the President Pro-Tem, Stephen G. Papalas, and the Clerk; Linda A. Yuhasz called the roll:

Lastic-P; Papalas-P; Scarnecchia-P; Cox-P; Stredney-P; Papas-P; Fuda-P; Marino-A. It was moved by Papas, seconded by Fuda to excuse the absence of President Robert Marino. Motion carried.

It was moved by Scarnecchia, seconded by Fuda to accept the Minutes of the regular meeting of May 17, 2006 and place them on file. Motion carried. It was moved by Scarnecchia, seconded by Fuda to accept the minutes of the Public Hearing of May 23, 2006 and place them on file. Motion carried.

## **REPORTS AND COMMUNICATIONS**

FROM: The Auditor's Office

The Estimated Versus Actual Revenues through May, 2006

It was moved by Stredney, seconded by Papas to accept the report and place it on file. Motion carried.

FROM: The City Income Tax Office

Monthly Receipts for the Month of May, 2006

It was moved by Scarnecchia, seconded by Fuda to accept the report and place it on file. Motion carried.

## **COMMITTEE REPORTS**

Councilman Fuda: We did have a Utilities Meeting last week to discuss the extension of sanitary sewer lines to the Hill Top area in McDonald. It was a project done a few years ago with CDBG for the people who qualified. These are the citizens who didn't qualify for the CDBG so they are going to pay for it on their own.

## **MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL**

Kelly Walker of 2122 Robbins Ave., Niles, Ohio: I am hoping that the City Council rather than doing a straight out repeal of registration would consider making it voluntary.

President Pro-Tem Papalas: Do you mean for the bicycles?

Councilman Scarnecchia: I'll be having an answer on that, the ordinance.

President Pro-Tem Papalas: Kelly, what is your reasoning? I am just curious, we would like some feedback.

Mr. Kelly Walker: Would you look at the ordinance, the way it is set up and you look at other ordinances around the state, basically these are designed to provide some record so that you cannot have a second hand seller liquidating stolen property. Having had one bicycle disappear on me, something like that might make it less likely to liquidate it by somebody else. Please bear in mind I'm not getting into a debate of what particular registration system the city might use.

Councilman Scarnecchia: Mr. President I would like to at this time answer this gentleman, okay?

President Pro-Tem Papalas: Yes sir.

Councilman Scarnecchia: We are going to appeal our 1939 ordinance. The safety committee is looking into like other communities, the National Bike Registry. This is the program set up for any area that wants to get into it. It's true there are a lot of stolen bikes and there is no way of identifying the bikes but with this National Bike Registry you have the (inaudible) number and it's a good system. We are looking into it and probably if we are going to establish to be in with it, it will be several months. But our 1939 ordinance, for a license, it's kind of outdated now. So what you are saying we are going to do, okay?

Mr. Kelly Walker: Thank you for your time and attention.

President Papalas: Thank you Mr. Scarnecchia for your explanation.

## **ORDINANCES AND RESOLUTIONS**

### **ORDINANCE NO.\_\_\_\_ (Draft No. 28-06)**

Amended Draft No. 28-06 to be brought to the floor for the third time:

#### **AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 1157.11 REGARDING GROUP RESIDENTIAL DEVELOPMENTS IN R-B, R-C, B-2 AND B-3 ZONING DISTRICTS; AND, DECLARING AN EMERGENCY.**

It was moved by Scarnecchia seconded by Fuda to suspend the rule requiring three readings.

**YEAS 6    NAYS 0**

Rules are suspended.

Councilman Scarnecchia: Terry, on your letter on the amended paragraph where you eliminated the words "internal traffic circulation" to avoid the argument that 1175.06 cannot be used to require sidewalks. What is the argument?

Mr. Terry Dull: If someone looked at that wording that said "internal traffic circulation" and try to say that you didn't refer to sidewalks, you were only talking about streets. We

wanted it to be clear that everything in 1175.06 would apply and definitely would include sidewalks.

Councilman Scarnecchia: Then with this draft as it is, we will require sub divisions for residential developments to have city streets, by codes, sidewalks and the curbs. Am I correct?

Mr. Terry Dull: All those requirements are in there and there is a possibility that someone could come in and ask for a variance but the starting point is sidewalks and curbs.

Councilman Scarnecchia: But that still would end up in council anyway.

Mr. Terry Dull: Correct.

Councilman Scarnecchia: Thank you, nice job on that ordinance.

It was moved by Stredney, seconded by Papas that this draft be adopted.

**YEAS 6 NAYS 0**

This Draft No. 28-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO.\_\_\_\_ (Draft No. 33-06)**

Draft No. 33-06 to be brought to the floor for the second time:

**AN ORDINANCE REPEALING CODIFIED ORDINANCES 373.12, 373.13 AND 373.14 REGARDING BICYCLE REGISTRATIONS.**

It was moved by Scarnecchia, seconded by Papas to suspend the rule requiring three readings.

**YEAS 6 NAYS 0**

Rules are suspended.

It was moved by Scarnecchia, seconded by Papas that this draft be adopted.

**YEAS 6 NAYS 0**

This Draft No. 33-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO.\_\_\_\_ (Draft No. 35-06)**

**AN ORDINANCE AMENDING CODIFIED ORDINANCE 921.99, THE PENALTY SECTION FOR FAILING TO INSTALL A BACKFLOW DEVICE AND TO HAVE IT INSPECTED AND TESTED; AND, DECLARING AN EMERGENCY.**

It was moved by Fuda, seconded by Lastic to suspend the rule requiring three readings.  
**YEAS 6 NAYS 0**

Rules are suspended.

Councilman Scarnecchia: Randy, like our other ordinance, is this still strictly for business and industrial?

Mr. Randy Fabrizio: This is restricted to commercial and industrial accounts.

Councilman Scarnecchia: We are not getting into residential?

Mr. Randy Fabrizio: No, all this does is amend the enforcement action. Currently the legislation reads that recertified letters will be sent out and sanctions will be enforced. We have found over the past several years that the people don't respond to the first certified letter usually don't respond to the second or the third certified letter. At a little over five dollars per mailing sent out its becoming quite cost prohibited. So, in an effort to stream line the program I sat down with our coordinator, Sherry Rose and decided it would be much more effective and conservative to send out one notice. It will be sent out as a color coded post card instead of a letter to save some postage. This way they will be given their chance to go ahead and get their backflow device tested and if they don't, the next letter will be a notice of enforcement action within two weeks of the mailing sent out.

Councilman Scarnecchia: I have two questions. Number one, do we ever get a report of a backflow valve not working and then it comes back to Sherry and has to be taken care of? Number two, being a former businessman, I know we get a list of everyone who will check these backflow valves but it seems to go up every year. To come in and check that backflow valve its sixty dollars. For a small business, you know they say that they are there two minutes.

Mr. Randy Fabrizio: I understand but that is another cost to doing business. We are vested with the responsibility by the EPA to maintain and protect the integrity of the water supply. The way we able to maintain the integrity of the water supply is by making sure that the water goes in the building and does not have the possibility coming out and going to another building.

Councilman Scarnecchia: I understand but who sets the rate for these inspections?

Mr. Randy Fabrizio: It's driven by the market. The people who are allowed to test are certified by the Ohio Department of Commerce. Those are the only folks who are allowed to test.

Councilman Scarnecchia: They can charge whatever they want, right?

Mr. Randy Fabrizio: Correct.

Councilman Scarnecchia: Thank you.

Councilman Fuda: We are required by the EPA to have these tested every year since 1990.

Mr. Randy Fabrizio: No we are required to set up our own program. Council has sat down and reviewed it over the years and it is an annual inspection.

Councilman Scarnecchia: I said this last time and I'll say it now that the EPA mandates with no funding, unfunded mandates.

It was moved by Fuda, seconded by Stredney that this draft be adopted.

**YEAS 6 NAYS 0**

This Draft No. 35-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO. \_\_\_ (Draft No. 36-06)**

**AN ORDINANCE AMENDING CODIFIED ORDINANCE 923.08(e), EROSION CONTROL TO ADHERE TO PROCEDURES AND REQUIREMENTS OF THE TRUMBULL COUNTY EROSION AND SEDIMENTATION CONTROL RULES; AND, DECLARING A EMERGENCY.**

It was moved by Fuda, seconded by Papas to suspend the rule requiring three readings.

**YEAS 6 NAYS 0**

Rules are suspended.

It was moved by Fuda, seconded by Papas that this draft be adopted.

**YEAS: 6 NAYS: 0**

This Draft No. 36-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**RESOLUTION NO. \_\_\_ (Draft No. 37-06)**

**A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO EXECUTE AN AMENDMENT OF THE SUPPLEMENTAL AGREEMENT FOR WEATHERSFIELD SUB SEWER DISTRICT NO. 3; AND DECLARING AN EMERGENCY.**

It was moved by Lastic, seconded by Fuda to suspend the rule requiring three readings.

**YEAS 6 NAYS 0**

Rules are suspended.

It was moved by Fuda, seconded by Stredney that this draft be adopted.  
**YEAS 6 NAYS 0**

This Draft No. 37-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO.\_\_\_\_ (Draft No. 38-06)**

**TO AUTHORIZE THE EXECUTION OF THE COMBUSTION TURBINE  
POWER SCHEDULE**

It was moved by Fuda, seconded by Scarnecchia to suspend the rule requiring three readings.  
**YEAS: 6 NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Stredney that this draft be adopted.  
**YEAS: 0 NAYS: 0**

This Draft No. 38-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO.\_\_\_\_ (Draft No. 39-06)**

**TO AUTHORIZE THE EXECUTION OF POWER PURCHASE SCHEDULES TO  
SELL THE MUNICIPALITY'S PROJECT SHARE OF THE CAPACITY OF  
COMBUSTION TURBINE PROJECT TO AMERICAN MUNICIPAL POWER-  
OHIO, INC., AND TO APPROVE THE REPURCHASE OF THAT PROJECT  
SHARE BY THE NORTHEAST AREA SERVICE GROUP AND THE RICHARD  
H. GORSUCH GENERATING STATION PROJECT PARTICIPANTS**

It was moved by Fuda, seconded by Papas to suspend the rule requiring three readings.  
**YEAS: 6 NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Stredney that this draft be adopted.  
**YEAS: 6 NAYS: 0**

This Draft No. 39-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**ORDINANCE NO.\_\_\_\_ (Draft No. 40-06)**

**AN ORDINANCE APPROVING THE RECODIFICATION, EDITING AND  
INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS  
COMPONENT CODES OF THE CODIFIED ORDINANCES OF NILES, OHIO,  
AND THE DECLARING OF AN EMERGENCY**

It was moved by Scarnecchia, seconded by Papas to suspend the rule requiring three readings.

**YEAS: 6    NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Papas that this draft be adopted.

**YEAS: 6    NAYS: 0**

This Draft No. 40-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**RESOLUTION NO.\_\_\_\_ (Draft No. 41-06)**

**A RESOLUTION REQUESTING ASSISTANCE IN DEVELOPING A PROPOSAL TO LOCATE A NEW HONDA MOTORS PLANT WITHIN THE CITY**

It was moved by Stredney, seconded by Fuda to suspend the rule requiring three readings.

Councilman Stredney: I am asking council for their support on this. I met with the Mayor a few times in a couple brainstorming sessions and talked about it. I think with the help of the Federal and State officials we have a shot at possibly getting the Honda Plant here or at least enticing them a little bit.

**YEAS: 6    NAYS: 0**

Rules are suspended.

This Draft No. 41-06 has been adopted this 7<sup>th</sup> day of June, 2006.

**RESOLUTION NO.\_\_\_\_ (Draft No. 42-06)**

**A RESOLUTION ADOPTING THE BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2007; AND DECLARING AN EMERGENCY**

It was moved by Scarnecchia, seconded by Lastic to suspend the rules requiring three readings.

**YEAS: 6    NAYS: 0**

Rules are suspended.

It was moved by Fuda, seconded by Stredney that this draft be adopted.

**YEAS: 6    NAYS: 0**

This Draft No. 42-06 has been adopted this 7<sup>th</sup> day of June, 2006.

## MISCELLANEOUS REMARKS

Mayor Infante: We need Councilman Stredney to bring in the ordinance for the CDBG formula grant for next year. It is eighty four thousand dollars and we had the first public hearing on February the 21<sup>st</sup>. The second public hearing is Monday June 12<sup>th</sup>, 2006. The projects that are to be done will be in the distress area. We got that Distress Grant for three hundred thousand in the east side area where we are putting improvements in the roads, sidewalks, storm sewers and sanitary, where we want to expand on that and finish the sidewalks.

Mr. Mark Hess: As soon as we finish the sidewalks on Grant Street and Scott Street. Those were part of the application last year and go through parts that didn't get funded. We are going to use our formula allocation and finish that.

Mayor Infante: The second public hearing is Monday at 4:30 p.m.

President Papalas: Mike thanks for everything today. I did talk to the people, after I got done with them I didn't even know what day it was. Thank you anyway, I appreciate it.

Mr. Randy Fabrizio: The contractor will be mobilizing equipment for the Crandon Avenue pump station project tomorrow. It is already staked out. Have the neighbors contact me if they have any concerns.

Councilman Stredney: Before the meeting I talked to Mr. Guarino, I had a couple complaints. I know that Mr. Papalas and Mr. Marino talked to you about some kids playing a little rough down on Cedar Street Park. So, can we get that addressed? A couple blocks surrounding there are some vandalizing problems.

Councilman Papas: Our meeting that is going to be held on June 21<sup>st</sup> I would like to be moved to June 12<sup>th</sup> at 5 o'clock. If that would be okay with everyone at council.

Mayor Infante: Just make sure that you have enough council members there to pass the CDBG. We have a deadline.

Councilman Fuda: If everyone else is going to be here we might as well have it on the regular time because you are going to be out of town the time you want to have it and we are still going to have the same amount of councilmen available for the meeting. You might as well keep the meeting as it is rather than change it.

President Papalas: We are back to where we were. Make sure that everybody is here for that meeting.

Councilman Scarnecchia: Chief I heard that our ladies of the night are back on Fenton Street and Cedar Street. Would you check? Thank you.



President Papalas: Before Frank and the adjournment I want to thank everybody for being patient tonight as far as my being pro-tem is concerned. Bob is out of town and will be back for the next meeting. Thank you.

Councilman Fuda: I have concerns for the people on Bowman Street. There are a lot of cars parking on both sides of the street and they are concerned that kids going and coming out of the cars that someone is going to be hurt.

Mayor Infante: You guys passed an ordinance letting people park on streets.

Councilman Fuda: I know. They are parking on both sides of the street.

Councilman Scarnecchia: Are you talking about Nancy Street?

Councilman Fuda: Nancy Street, I'm sorry not Bowman Street, Nancy Street.

Councilman Scarnecchia: We have discussed that before and they have said we were here first.

President Papalas: Is this night or day?

Councilman Scarnecchia: Day and night. We have three policemen that live there. Two from Niles and one from Warren. The houses are together and there are three police cars, two on one side and one on the other side. It is difficult getting through. The people there are very conscious about this and said we were here first before the condominiums

President Papalas: Well one of the possibilities might be to sit down with the Safety Director and Chief and make one side of the street no parking.

Councilman Fuda: That might be the answer.

Mayor Infante: Or revisit your ordinance.

President Papalas: So I would advise you to sit down with your safety committee, the Chief, Safety Director and the Mayor.

Councilman Fuda: A few other concerns on Morningside and one is the speeding. People are flying up and down that street. There are also two homes, 124 and 131 Morningside that have been vacant. People are tired of cutting the grass for them. These lending institutions have to start taking care of these properties. We have them all over the city.

President Papalas: Same thing on Youll Street. You are right.

Councilman Fuda: The bad part of this is we keep doing the work and putting it on their taxes. What happens to some of these houses like the one on Potomac, they demolished

the house and nobody can afford to buy the lot now. They have thirty five people that wanted to buy that lot but there are so many taxes owed on it they can't afford to buy it. We keep doing the work, that means are people are out there working. How many houses in Niles that is vacant right now? Mike? Over hundred and forty someone mentioned. What can we do to these institutions to make them pay for the homes they have? Somebody has to pay for it; we can't afford to send people out there. We are paying our men to do their job.

Councilman Papas: They should be responsible in taking care of it it's their property now.

Mr. Terry Dull: Let me talk with Steve it seems to me that we attempted to address that issue the last time we made a revision. I'll talk with Steve Yovich and see if we can come up with any other recommendation or at least get some kind of a statement as to where we are right now.

Councilman Fuda: If we take these homes is it possible for us to take their plans and what they owe us?

Mayor Infante: You have got to get the title.

Mr. Terry Dull: Yes, the problem is taxes. Everything is happening ahead. The taxes have the number one priority on the property, the real estate mortgages have the priority over us so whatever claim we are making falls in behind them under the real estate laws. It makes it impossible for us to come in and take over the property without compensating everyone else. It would be like an eminent domain. You are taking over the property from the mortgage companies and they have a priority to us. It's extremely.....

Councilman Fuda: We are paying a lot of money to maintain their property some how we have to collect that money and we are not collecting it. We have people out there in our city departments that can't do the jobs they have to do because they are maintaining their properties. This isn't right.

Mr. Terry Dull: I'll sit down Frank, with Steve and review what we have and if there are other suggestions that we can come up with and we will have some thing to talk about at the next meeting.

Councilman Scarnecchia: Terry, do we currently have a lien on all these properties?

Mr. Terry Dull: Anything that we pointed out it's automatic that we send that information up to the county.

Mayor Infante: Every time that we cut their grass every week Mike sends it up.

Councilman Fuda: Lowe's is going to be presenting us with a check for seventy five hundred dollars to take care of the fishing pier.

President Papalas: Good, wonderful.

It was moved by Fuda, seconded by Stredney to adjourn this meeting. Motion carried 6-0.

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Linda A. Yuhasz, Clerk of Council

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Stephen Papalas, President of Council Pro-Tem